

Serial No. 10/644,420

UTILITY PATENT

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Response to Off. Act. of Feb. 25, 2005

B&D No. TN2174

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: **James R. PARKS et al.**

Serial No.: 10/644,420

Examiner: **C. Dexter**

Filed: **August 20, 2003**

Group Art Unit: 3724

For: **DUST COLLECTION ARRANGEMENT FOR A MITER SAW**

Assistant Commissioner for Patents  
Washington, DC 20231

**RESPONSE TO OFFICE ACTION**

I, Adan Ayala, PTO Reg. No. 38,373, hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office Fax No. (703) 872-9306 on 5-10-05

  
Adan Ayala

Dear Sir:

This is in response to the Office Action mailed on February 25, 2005.

The Examiner noted that the amendment filed on October 4, 2004 is improper, because the claims remaining after such amendment are drawn to a non-elected invention.

Applicants acknowledge that the "general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter." MPEP § 819. However, "the Office is not precluded from permitting a shift," especially where the shift reduces work by simplifying the issues. MPEP § 819.01.

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In the previous case, the Examiner searched and examined Claims 4-7, a total of 4 claims, which would have been re-searched and examined had Applicants amended the claims in response to the Office Action. In the present case, Applicants have canceled Claims 4-7 and re-introduced Claims 1-3. In other words, the Examiner needs only to examine 3 claims, rather than 4.

Accordingly, the present shift reduces the Examiner's work. Under the MPEP rules, the Office should permit the shift between elected claims and allow prosecution of Claims 1-3.

Applicants believe the application to be in condition for formal allowance. Accordingly, allowance of Claims 1-3 is respectfully requested.

The Commissioner is authorized to charge payment of a two-month extension fee (\$450.00), as well as any other fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



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